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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| BEYER WEAVER & THOMAS LLP P.O. BOX 778 BERKELEY, CA 94704-0778 | | | EXAMINER SALCE, JASON P | |
| | | | ART UNIT 2611 | PAPER NUMBER |
| DATE MAILED: 12/23/2003 | | | | |

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,609

Applicant(s)

COURTNEY ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-12 are drawn to a system for a receiver for storing and accessing data, classified in class 725, subclass 98.
- II. Claims 13-20 are drawn to an object oriented software program used for creating copies of data to be processed, classified in class 715, subclass 530.

2. The inventions are distinct, each from the other because:

Inventions I through II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

In the instant case, invention I has separate utility such as cable television set-top box for providing broadcast data to a viewer. See MPEP § 806.05(d).

Invention II has separate utility such as an object-oriented software program for use in a TV network. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for reexamination purposes as indicated is proper.

4. During a telephone conversation with Ramin Mahboubian on 12/3/03 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-12. Affirmation of this election must be made by applicant in replying

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to this Office action. Claims 13-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

5. Claim 7 recites the limitation "the data locator" in Line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (U.S. Patent No. 6,405,372) in view of Kim et al. (U.S. Patent No. 6,209,131).

6. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (U.S. Patent No. 6,405,372) in view of Kim et al. (U.S. Patent No. 6,209,131).

To avoid further confusion, Kim1 will be equivalent to the '372 reference, and Kim2 will be equivalent to the '131 reference.

Referring to claim 1, Kim1 discloses a data storage unit (see Column 2, Line 18 for a memory used to store EPG data).

Kim1 also discloses a data updater unit coupled to the data storage unit arranged to detect an update to transmitted data ().

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Kim1 also discloses a data accessing system coupled to the data storage unit arranged to access data from the data storage unit (see Column 1, Lines 33-35 for accessing the EPG data stored in memory to a display), wherein the transmitted data can be stored in the data storage (see again Column 2, Line 18) and wherein the data accessing system can request data to be stored in the data storage (see Column 3, Lines 40-58 for selecting a channel using a first tuner, and in response to this selection (a request), allowing a second tuner to scan for updated EPG information for every other channel not being viewed).

Kim1 fails to disclose sending a notification when the update to transmitted data has been detected. Kim2 discloses that after EPG information has been updated, that the user is notified (see Column 7, Lines 33-37 and Lines 45-48). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify EPG updating system, as taught by Kim1, using the EPG update notification to the user, as taught by Kim2, for the purpose of preventing the user from becoming confused and also reserving an undesired program (see Column 7, Lines 48-50 of Kim2).

Claim 2 corresponds to claim 1, where Kim1 discloses that the memory is part of the receiver in Figure 1 (see element 118).

Claim 3 corresponds to claim 1, where Kim1 discloses data is saved at the receiver in data storage (see again Figure 1, element 118).

Claim 4 corresponds to claim 1, where Kim1 discloses requesting data to be saved (see again Column 3, Lines 40-58 for selecting a channel using a first tuner, and in response to this selection (a request), allowing a second tuner to

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scan for updated EPG information for every other channel not being viewed).

Also note that this data is EPG data transmitted to a receiver (see Column 1, Lines 31-35).

Kim1 also discloses a data accessor capable of accessing the storage device to retrieve transmitted data from the storage device (see again Column 1, Lines 33-34 for storing the EPG data in storage and viewing it on a display).

Claim 5 corresponds to claim 4, where Kim1 discloses a data saver that saves transmitted data into the data storage (see Column 2, Lines 19-22 for a controller that updates the memory (data storage)). Kim1 and Kim2 fail to disclose requesting data to be stored. The examiner takes Official Notice that data can be requested to be stored in a memory. It would have been obvious to modify the memory of Kim1 and Kim2 to include a memory that requires data to be requested to be stored, for the purpose of preventing memory overflow.

Claim 6 corresponds to claim 4, where Kim1 discloses a locator that identifies location of transmitted data (note that a memory inherently contains an address of where the data is stored in memory).

Claim 7 corresponds to claim 1, where Kim1 and Kim2 fail to disclose that the transmitted data are on a carousel, and the locator is a carousel file locator. The examiner takes Official Notice that it is well known to transmit data to a user by means of a carousel. It would have been obvious to modify the EPG data transmitter as disclosed by Kim1 and Kim2, using a carousel for the purpose of providing redundant transmission in the case of missing data resulting from a busy transmission path.

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Referring to claim 8, see the rejection of claim 7.

Referring to claim 9, see the rejection of claim 1.

Referring to claims 10 and 11, see rejection of claim 1.

Referring to claim 12, see rejection of claim 6.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5359.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

December 11, 2003